



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
ACQUISITION AND GRANTS OFFICE

March 11, 2014

MEMORANDUM FOR: Deputy Assistant Administrators
Staff Office Directors

FROM: Mitchell J. Ross 
Director

SUBJECT: Acquisition Instruction 14-03 NOAA Acquisition Review and
Approval Process

This memorandum is to provide the attached Acquisition Instruction (AI) 14-03, which rescinds AI 04-01 issued on September 25, 2003 and establishes the NOAA Acquisition and Grants Office (AGO) procedures for the review and approval of certain pre-award, award, and post-award contract actions. Department Administrative Order (DAO) 208-2 and DAO 208-5 established the authority and requirements for the review and approval of individual contracting actions.

The AI sets forth the required actions and documentation for conducting NOAA Contract Review Boards (CRB) and reviews or approvals required at the Senior Bureau Procurement Official (SBPO) level or above. Regardless of the dollar value, all solicitations, contracts, and modifications shall be reviewed by the contracting officer prior to issuance or award, even if the review and approval procedures prescribed within the AI are applicable.

Questions regarding this matter should be addressed to Mr. Dale Henderson, AGO Policy and Oversight Division (POD) at dale.henderson@noaa.gov, or by telephone at (816) 823-3836.

Attachment:

Acquisition Instruction for NOAA Acquisition Review and Approval Process

March 11, 2014

ACQUISITION INSTRUCTION 14-03

NOAA ACQUISITION REVIEW AND APPROVAL PROCESS

A. Purpose

The purpose of this Acquisition Instruction (AI) is to rescind AI 04-01 dated September 25, 2003. This AI establishes procedures for review and approval of certain pre-award, award, and post-award contract actions.

B. Background

Department Administrative Order (DAO) 208-2, Contracting Authority, and DAO 208-5, Contracting (Procurement) Review and Approval Requirements, establish the authority and requirements for review and approval of individual contracting actions.

This AI establishes procedures pertaining to the requirement for the conduct of NOAA Contract Review Boards (CRB) and reviews or approvals required at and above the Senior Bureau Procurement Official (SBPO) level.

C. Applicability

These procedures are applicable to all NOAA Acquisition and Grants Office (AGO) Acquisition Divisions (AD).

D. General

At a minimum, all solicitations, contracts, and modifications – regardless of dollar value – shall be reviewed by the contracting officer (CO) prior to issuance or award. If the contract specialist is also the CO, the action must be reviewed and approved at a level above the CO.

Review and approval thresholds are specified in the matrix set forth in Attachment 1. The matrix captures the most common types of actions; however, it is not all inclusive.

E. Contract Review Board Procedures

1. The purpose of the Contract Review Board (CRB) is to provide a uniform method for the review and approval of solicitation, award, and post-award acquisition actions. The CRB provides an independent review of significant contract actions as specified in paragraph 6 of this section. Solicitation actions will be brought before the CRB prior to issuance of the action. Award and post-award actions will be brought before the CRB prior to execution by the CO. This procedure supplements but does not replace normal supervisory and CO responsibilities.

2. The CRB shall review actions outlined in these procedures to ensure that the proposed action, when properly executed, will:

- a. Comply with established acquisition policies, procedures, and regulations;
- b. Document sound business decisions;
- c. Be in the best interest of the Government.

3. The assigned contract specialist shall prepare the review package to ensure that the package contains all relevant documentation prior to submission for review, all contractual actions are complete, and all supporting documents pertaining to the action are signed/executed as applicable prior to seeking review and approval.

4. The contract specialist shall forward the review package to the appropriate level for review and approval. A sample CRB Review and Approval Form is provided at Attachment 2 to document the CRB action. An alternate form internal to the AD may be used, provided it contains all the information necessary to document compliance with this AI and to provide a clear and complete audit trail of the action.

5. The contract specialist shall ensure the file clearly indicates the completion of review and approval by the appropriate level(s). All approval decisions and resolution of comments, if any, shall be in writing and attached to the review and approval form before forwarding the package on to the next reviewer. All substantive issues will be resolved prior to release of a solicitation, award of the contract, execution of a modification, or other action.

6. Actions Requiring CRB Review:

a. Prior to solicitation:

- Acquisition plans for acquisitions >\$10 Million;
- Source selection plans for all solicitations requiring review;
- IFB/RFP >\$500,000 where award will be based on both technical and price/cost competition;
- Solicitations allowing the use of progress payments based on percentage or stage of completion (except those for construction or ship repair);
- Any other solicitations for proposed acquisitions requiring SBPO or higher level approval to issue.

- b. Prior to award (regardless of dollar value except where indicated):
 - One offer awards under competitive RFPs including competitive 8(a) awards;
 - Contract awards >\$500,000
 - Letter contracts >\$50,000
 - Any other contract awards for proposed acquisitions requiring SBPO or higher level approval.

- c. Post-award actions:
 - Justifications for Other than Full and Open Competition (JOFOC) >\$650,000 for out-of-scope modifications to existing contracts;
 - Modifications associated with claims > \$100,000.

7. Documentation to be Submitted: The following documentation shall be included in the review package:

- a. For sole source procurement actions, submit the JOFOC and any supporting documentation (e.g., CD-570, results of public announcement, market research, etc.);
- b. For solicitations, all documents prepared prior to solicitation (e.g. justifications, required approvals/clearances, determinations and findings, CD-570, public announcement, set-aside determination, etc.);
- c. For proposed contract awards, all pre-award documentation (competitive range determination, technical and price/cost evaluations, source selection decision, etc.);
- d. For post-award actions, all pertinent pre-award and post-award documentation related to the action.

At the discretion of the CRB or higher level reviewers, submission of additional documentation necessary to perform an effective review may be required. **For all actions at or above the dollar threshold for SBPO review, the documents required in Section F.7 shall be submitted to and reviewed by the CRB at a minimum.**

8. CRB Composition:

a. The CRB shall be comprised of no less than the chairperson and two additional members. The CRB chairperson shall be an Acquisition Division Director, Deputy Division Director, or designee possessing a Level III certification. One other member of the board must possess a Level II certification. All members must be classified in the GS-1102 series and be grade GS-12 or higher.

b. The CRB chairperson will determine the exact composition required, following the above minimum criteria, and methodology for review (formal CRB meeting versus independent file reviews) based on the dollar value, complexity, or visibility of the action to be reviewed.

9. The approval, conditional approval, or disapproval of the action by the CRB shall be reflected on the Review and Approval Form. Each CRB reviewer shall affix his/her signature and date to denote approval and concurrence with the decision. Conditional approval shall be granted by checking the appropriate block; signature by participating reviewers; and identifying all conditions, in writing, that must be completed before the action is released. The CO and contract specialist shall comply with the CRB recommendations and make the required revisions. Should the CO take exception to any CRB comments, s/he shall reconcile comments with the CRB Chairperson prior to release of the document or forwarding for higher level review.

10. Waiver of CRB Requirement: The applicable Head of Contracting Office (HCO) may grant waiver of the CRB requirement for any of the above actions upon submission of a written request by the CO citing the reasons why the waiver is necessary. The HCO shall provide a copy of any waiver granted to the NOAA SBPO concurrent with approval of the waiver.

F. Senior Bureau Procurement Official Review Procedures

1. All actions requiring SBPO review shall be submitted to the Policy and Oversight Division (POD).

2. The HCO shall submit a complete review package as set forth below to the POD for review using the form at Attachment 3. If the action is acceptable as submitted, the POD will forward the action to the SBPO for review/approval. If revisions are required, the POD will notify the AD of required changes, obtain and review changed documents, and forward the package to the SBPO for review and approval.

3. The SBPO will review the action and, if acceptable, approve it as submitted and return the file to the AD with notification to the POD.

4. If the SBPO requires changes before approval, the SBPO will send an email notification of the required changes to the AD and POD. The POD and the AD will discuss the SBPO comments if necessary. If modifications to any documents are required, the AD will submit the revised document(s) to the SBPO and POD for review. If only explanatory information is required by the SBPO, the AD will send an email response to the SBPO and POD.

5. When all SBPO comments/changes have been cleared, the SBPO will either approve or disapprove the action by signing the SBPO Review/Approval Form and returning it to the AD with notification to the POD.

6. Actions Requiring SBPO Review:

- Acquisition plans >\$10M
- JOFOCs for acquisitions >\$650,000
- Delegation of Source Selection Authority
- IFBs/RFPs >\$25M*
- Noncompetitive acquisitions >\$25M*
- Contract awards >\$25M*
- Letter contracts >\$1M
- Contract modifications >\$2.5M (except option exercises and incremental funding actions)
- Contract terminations >\$2.5M
- Termination settlement agreements >\$2.5M
- Claims >\$2.5M
- Protests (determinations and responses) >\$2.5M

* IFBs/RFPs and contract awards between \$10M and \$25M do not require SBPO review, provided the Acquisition Plan was previously reviewed and approved by the SBPO. The SBPO retains the right to review any solicitation or contract award between \$10M and \$25M if deemed necessary.

7. In addition to the actions specified in Section F.6, the following additional actions requiring Senior Procurement Executive review and approval in accordance with Procurement Memorandum 2011-05 shall be submitted for SBPO clearance:

- Filed lawsuits or appeals responses
- Use of emergency acquisition flexibility authority
- Ratifications of unauthorized commitments > \$50,000
- FAR deviations (individual and class)
- Proposed responses to Congressional requests for information
- Use of discretionary authority to declare void and rescind contracts
- Exclusion of sources to establish or maintain alternate sources
- Debarment, suspension or ineligibility of Contractor actions
- Multi-year contract cancellations > \$12.5M
- Planned contracts with base plus option periods more than five years
- Rejection of recommendation to set aside an acquisition for small business
- Extension to contracts awarded under FAR 6.302-2 beyond one-year limit
- Award-fee, award-term, or incentive fee determination decisions
- Proposed award/incentive fee/term plans
- Actions involving contract reformation

8. Documentation to be Submitted: The following documentation shall be included in the review package, if applicable; the reviewer may require submission of any additional documentation necessary to complete an effective review at his/her discretion:

- Presolicitation Actions:
 - ✓ Acquisition plan with any supporting documentation, including CRB approval form with comments, OGC review with comments, and documentation showing how all review comments were reconciled. For formal acquisition plans exceeding \$50 Million or those identified as special interest, include the documents required by CAM 1307.1, Section 5.6.
 - ✓ JOFOC with any supporting documentation such as market research, results of public announcement, etc., and CRB approval form with comments, OGC review with comments, and documentation showing how all review comments were reconciled.

- IFBs/RFPs and Noncompetitive Acquisitions:
 - ✓ Source selection plan
 - ✓ All justifications and CO determinations
 - ✓ JOFOC with supporting documentation (results of public announcement, market research, etc.) and Office of General Counsel (OGC) review
 - ✓ Set-aside determination (CD-570)
 - ✓ Award/incentive fee plan
 - ✓ Solicitation document with attachments
 - ✓ CRB approval form with comments, OGC review with comments, and documentation showing how all review comments were reconciled.

- Contract Awards (including Letter contracts):
 - ✓ Competitive range determinations
 - ✓ Final proposal evaluation reports
 - ✓ Price negotiation memorandums or business case memorandums
 - ✓ Source selection decisions
 - ✓ Required clearances (Equal Employment Opportunity letter, etc.)
 - ✓ Contract documents (for IDIQ contracts, include any task/delivery order funding the minimum order amount to be issued in conjunction with contract award)
 - ✓ CRB approval form with comments, OGC review with comments, and documentation showing how all review comments were reconciled).

- Contract Modifications:
 - ✓ SF-30 and all supporting documentation (e.g., independent government estimate, technical specifications, public announcement, price negotiation memorandum, CRB and OGC reviews and comments, etc.)

- Other Actions: For all other actions, submit all pertinent pre-award and/or post-award documentation related to the action.

9. Review/Approval Time: HCOs will allow five business days to obtain POD review and five business days to obtain SBPO review and approval. The HCO may request an expedited POD and/or SBPO review at any time in order to meet mission requirements.

10. Actions Requiring SPE Review: CAM 1307.1 requires all formal acquisition plans in excess of \$50 Million and those identified as special interest to be submitted to the Office of Acquisition Management (OAM) at least **14 business days** prior to holding the Bureau-level Acquisition Review Board meeting. In order for NOAA to comply with that requirement, Acquisition Divisions shall meet the following timeframes:

a. As early as possible in the procurement process, **but no later than 25 business days prior to the desired NOAA ARB date**, the CO shall contact the POD Review and Analysis Branch Chief and request that the ARB be scheduled. The Branch Chief will inform the CO of the meeting date as soon as it is scheduled with NOAA's Project Management Council secretary.

b. The CO shall submit the acquisition plan, with all required review signatures except the SBPO's, to the POD for review **no later than 23 business days prior to the scheduled ARB date**.

c. The CO shall complete any required revisions and submit the final acquisition plan to the POD **no later than 16 business days** prior to the scheduled ARB date.

The above timetable will enable NOAA to schedule the ARB, complete its internal reviews, and finalize the acquisition plan for submission to OAM within the time frame required by CAM 1307.1.

G. Legal Review Procedures

1. COs shall obtain legal review by the Assistant General Counsel for Finance and Litigation, or designee, prior to the execution and/or issuance of the categories of actions set forth in Department of Commerce Procurement Memorandum (PM) 2010-04.

2. In processing a legal review, COs shall follow the requirements of PM 2010-04 and the procedures set forth in AI 12-01, Legal Review Procedures. The CO may proceed with the contracting action if no response to a request for legal review is received within 15 calendar days after submission, provided the official file has been documented to substantiate that the action was submitted for legal review and the date it was submitted.

H. Reviews Above the SBPO

1. If any contracting action requires review and approval at a level above the SBPO, the CO must submit the contracting action package to the POD for review and SBPO review/approval following the procedures in Section F above.

2. Upon completion of the SBPO review, the SBPO will forward the action to the higher level reviewer/approver.

I. Effective Date

This AI is effective on the date of issuance and will remain in effect until superseded or rescinded.

J. Point of Contact

Questions concerning this AI should be directed to Dale Henderson, Acquisition and Grants Office (AGO), Policy and Oversight Division at dale.henderson@noaa.gov or by telephone at (816) 823-3836.

Attachments

1. Quick Reference Review and Approval Matrix
2. Sample Contract Review Board Review and Approval Form
3. SBPO Review and Approval Form

REVIEW AND APPROVAL MATRIX

Item	CRB	CO/ HCO	SBPO	IRB	Legal	HCA	SPE/OAM
Acquisition Plans (See CAM 1307.1, 5.10 exemptions)	>\$10 M		≥\$10M	>\$75 M or as designated by Department. Sec.	>\$10M	>\$10M	>\$10M
CAM 1307.1	AI 14-03		CAM 1307.1	CAM 1307.1	CAM 1307.1	CAM 1307.1	CAM 1307.1
JOFOCs (includes modifications to existing contracts but excludes the exercise of options under \$2M and 8(a) actions)	>\$650K Out-of-scope mods only	<u>Contracting Officer</u> No approval authority <u>HCO</u> Up to \$650K	>\$650K<\$12.5M <u>SBPO</u> (signs as Competition Advocate)		>\$100K	\$12.5M-\$62.5M	>\$62.5M
	AI 14-03	CAM 1306.70	CAM 1306.70		PM 2010-04	CAM 1306.70	CAM 1306.70
Limiting Sources (Justification approvals for orders placed or BPAs established under Federal Supply Schedules)		<u>Contracting Officer</u> Up to \$650K (unless a higher approval level is established in accordance with agency procedures). FAR 8.405-6(d)(1)	>\$650K<\$12.5M FAR 8.405-6(d)(2)			\$12.5M-\$62.5M FAR 8.405-6(d)(3)	>\$62.5M FAR 8.405-6(d)(4)
J&A for use of CR, T&M, and LH contracts		<u>HCO</u> AA 10-03	<u>SBPO</u> (1) If the HCO is the CO (2) Acquisition meets ARB threshold or (3) Designated by the SPE or SBPO as major investment oversight process AA 10-03				
Fixed Ceiling Price with Retroactive Price Redetermination to be approved by HCA			SBPO will review before HCA approval			All FAR 16.206-3(d) CAM 1301.70	

Item	CRB	CO/HCO	SBPO	IRB	Legal	HCA	SPE/OAM
Synopsis to FedBizOpps		<u>All</u> (If CS is CO, higher level review by Branch Chief/HCO) AA 05-02					
Solicitations	IFB/RFP ≥\$500K - when using progress payments based on percentage/ stage of completion, except construction or ship repair and - all where award is based on both technical and price competition AI 14-03	<u>All</u> (If CS is CO, approval is one level above CO for >\$1M) AI 14-03	≥\$10M (≥\$25M if SBPO approved AP) AA 12-02		≥\$1M (price is predominant basis for action >\$350K for all other actions PM 2010-04		
Contract awards	≥\$500K (>\$150K for one-offer awards) AI 14-03	CO review is required for all awards. If CS is CO, approval is one level above CO for awards >\$1M AI 14-03	≥\$10M (≥\$25M if SBPO approved AP) AA 12-02		<u>All</u> meeting solicitation requirements PM 2010-04		
Non-competitive acquisitions	≥\$250K AI 14-03	CO review is required for all awards. If CS is CO, approval is one level above CO for awards >\$1M AI 14-03	>\$10M AA 12-02		≥\$100K PM 2010-04		
Letter contracts	≥\$50K AI 14-03	CO review is required for all awards. If CS is CO, approval is one level above CO for awards >\$1M AI 14-03	≥\$1M AI 14-03		≥\$50K PM 2014-04		

Item	CRB	CO/HCO	SBPO	IRB	Legal	HCA	SPE/OAM
Contract Modifications	Mods associated with claim >\$100K AI 14-03	CO review is required for all awards. If CS is CO, approval is one level above CO for awards >\$1M AI 14-01	>\$2.5M (excludes options, incremental funding actions) AI 14-03				
Settlement agreements		CO review is required for all awards. If CS is CO, approval is one level above CO for awards >\$100K AI 14-03	≥\$2.5M AI 14-03		≥\$100K (adjusted contract price per Changes/other clauses) PM 2010-04		
Claims		All (If CS is CO, approval is one level above CO) AI 14-03	≥\$2.5M AI 14-03		All (not included under settlement agreement) PM 2010-04		
Terminations		All (If CS is CO, approval is one level above CO) AI 14-03	≥\$2.5M AI 14-03		All (termination notices/other final decisions) PM 2010-04		
Protests – Responses to/Determinations		All (If CS is CO, approval is one level above CO) AI 14-03	≥\$2.5M AI 14-03		All PM 2010-04	All AI 14-03	
Stop Work Orders		All (If CS is CO, approval is one level above CO) AI 14-03	N/A	N/A	N/A	N/A	

Item	CRB	CO/HCO	SBPO	IRB	Legal	HCA	SPE/OAM
Ratifications		If ≤\$50K, SBPO has delegated authority to HCO to review and approve ratifications. AA 12-02	All (If ≥\$50K, action must be reviewed and receive "clearance" prior to submittal to SPE CAM 1301.602	N/A	All		≥\$50K CAM 1301.602

Footnote

For the purposes of determining dollar value, include the value of the base period amount plus all options; the total value regardless of the funding amount (incremental funding); and the maximum amount available for order under the contract inclusive of options (IDIQ/Requirements contracts).

DOCUMENT NO:		BRANCH:		Page 2 of
NO.	REVIEWER'S COMMENTS / INITIALS	NO.	CORRECTIVE ACTIONS / INITIALS	
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SBPO REVIEW AND APPROVAL

Solicitation/Contract No./Title _____

Total Dollar Value: _____ Date: _____

From: HCO
To: Policy and Oversight Division

Request review of the attached action. The action has been reviewed and is recommended for SBPO approval.

HCO Signature Date

Changes Required

From: Policy and Oversight Division Reviewer
To: HCO

This action has been reviewed; changes are required per the attached comments. Resubmit the corrected package to this office once all required changes have been made.

POD Reviewer Signature Date

No Changes Required or Required Changes Made

From: Policy and Oversight Division
To: SBPO

The proposed action has been reviewed. Recommend approval.

POD Reviewer Signature Date

SBPO Action

To: HCO [] Approved as submitted [] Conditional approval; see comments
or
To: POD Reviewer [] Disapproved; coordinate required changes with HCO

Comments: _____

SBPO Signature Date